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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/616,109	07/14/2000	Charles H. Van Dusen	7096 US	6536

7812 7590 06/18/2004
SMITH-HILL AND BEDELL
12670 N W BARNES ROAD
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PORTLAND, OR 97229

EXAMINER

RAO, ANAND SHASHIKANT

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/616,109

Applicant(s)

DUSEN ET AL.

Examiner

Andy S. Rao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/4/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed with respect to claims 1-10 as filed in Paper 8 on 2/4/04 have been fully considered but they are not persuasive.
2. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen et al., (hereinafter referred to as "Chen"), as was set forth in the prior Office Action of Paper 7 as mailed on 4/1/03.
3. The Applicants present five arguments contending the Examiner's rejection of claims 1-10 under 35 U.S.C. 102(e) as being anticipated by Chen et al., (hereinafter referred to as "Chen"), as was set forth in the prior Office Action of Paper 7 as mailed on 4/1/03. However, after a careful consideration of the arguments presented, and further scrutiny of the applied reference, the Examiner must respectfully disagree for the reasons that follow.

After summarizing the instant invention as recited in the claims and providing a brief description of the applied art (Paper 8: page 10, lines 1-31), the Applicants assert that Chen fails to address "transrating a program stream on a GOP basis depending on the number of bits in the GOP..." as recited in the claims (Paper 8: page 10, lines 32-33; page 11, lines 1-7). The Examiner respectfully disagrees. While it is noted that partitioning into processing units, the disclosure further discloses that the length of the processing units correspond to either frames of slices as shown in the disclosed Table 1 (Chen: column 5, lines 53-65). Chen further discloses that processing units can be easily recovered, and form the basic building block of a sequence of images (GOPs), or a single frame, or field, or even require reference units for motion compensation (Chen: column 8, lines 20-56). As such, since Chen discloses that the processing

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units can be frame multiples for the reasons as discussed above, and further discloses transrating processing units (Chen: column 7, lines 30-35), the Examiner asserts that the frame multiples anticipate the standard MPEG GOP arrangement of frames (Chen: column 9, lines 25-63), especially in correlating slices in adjacent picture groups. Accordingly, the Examiner maintains that Chen discloses "...transrating a program stream on a GOP basis depending on the number of bits in the GOP..." as in the claims.

Secondly, the Applicants argue that Chen fails to disclose "...inserting each group of pictures...into the constant bit rate packetized transport stream..." as in the claims (Paper 8: page 11, lines 8-18). The Examiner respectfully disagrees. It is noted that constant bit rate nature of the stream as recited only corresponds to the input characteristics of stream. It is noted that the as long as the insertion process occurs with the newly transrated GOP being interleaved into the originally input CBR stream, it would read on the claim. The CBR/VBR nature of the packetized transport stream after insertion needs to be defined by the claims, for the argument presented to have sufficient weight (Paper 8: page 11, lines 16-18). As such, Chen discloses the CBR nature of the input stream, and further discloses transcoding as recited on the transrating step, the Examiner maintains that this feature is met. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., CBR nature of the output packetized transport stream) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Thirdly, the Applicants argue that Chen fails to disclose "...inserting each group of pictures..." as in the claims (Paper 8: page 11, lines 19-26). The Examiner respectfully disagrees. It is noted that while Chen discusses the transrating in conjunction with delay times, those delay times are further equated to bit rates for controlling the transrating (Chen: column 12, lines 60-67; column 13, lines 1-27), and further discloses differing processing (i.e. transrating) in accordance with the differing groupings of pictures (Chen: column 9, lines 55-63). It is further noted that the inserting is met by the re-ordering disclosed in the reference (Chen: column 9, lines 63-67; column 10, lines 1-11). Accordingly, the Examiner maintains that the limitation is met.

Additionally, the Applicants argue that Chen fails to disclose "...transrating each group of pictures..." as in the claims (Paper 8: page 11, lines 27-35). The Examiner respectfully disagrees. It is noted that the citation in question discloses transcoding a queue of bitstream units for efficiency. This means that transcoding occurs in accordance within the limits established by the availability of bits. As to the having the available bits being connected to groups of bits, that has been previously addressed and discussed concerning the groups of pictures (Chen: column 9, lines 55-63). Accordingly, the Examiner maintains that this limitation has been met.

Finally, the Applicants argue that Chen fails to disclose "...inserting..." as in the claim (Paper 8: page 11, lines 36-37; page 12, lines 1-5). The Examiner respectfully disagrees. It is noted that the citation in question discloses an inserting step, and further regards to the first argument, the Examiner notes that constant bit rate nature of the stream as recited only corresponds to the input characteristics of stream. It is noted that the as long as the insertion process occurs with the newly transrated GOP being interleaved into the originally input CBR

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stream, it would read on the claim. The CBR/VBR nature of the packetized transport stream after insertion needs to be defined by the claims, for the argument presented to have sufficient weight (Paper 8: page 11, lines 16-18). As such, Chen discloses the CBR nature of the input stream, and further discloses transcoding as reading on the transrating step, the Examiner maintains that this feature is met. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., CBR nature of the output packetized transport stream) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (703)-305-4813. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris S. Kelley can be reached on (703)-305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andy S. Rao
Primary Examiner
Art Unit 2613

ANDY RAO
PRIMARY EXAMINER



asr
June 16, 2004